



3 1223 07129 2388

**GUIDEBOOK FOR LIBRARY COMMISSIONERS
ON THE CITY CHARTER
FEBRUARY, 1996**

PRESENTED BY KEN DOWLIN, CITY LIBRARIAN¹ DOCUMENTS DEPT.

Introduction:

JUN 10 1996

SAN FRANCISCO
PUBLIC LIBRARY

The new City Charter becomes effective on July 1, 1996.

The preamble calls for City officials, including Commissioners, to "improve the quality of urban life; to encourage participation of all persons and all sectors in the affairs of the City; to meet the needs of the people effectively and efficiently; to provide for accountability and ethics in public services; to foster social harmony and cohesion; and to assure quality of opportunity for every resident".

Mayor Brown is requiring all City Departments to conduct a management audit of their functions. The new Charter requires each City Department/Commission, within 90 days of the effective date of the Charter, to review all rules and regulations for which it is responsible and amend and adopt rules and regulations consistent with this new Charter.

The new Charter provides information about the overall governance structure of the City and how Commissioners and Department Heads, who carry out the day to day work of the City, fulfill their roles and responsibilities under the new Charter. The specific roles and responsibilities of Commissioners are delineated in the Charter and, with applicable State law, provide the legal framework for governance.

This summary first discusses the broad functions of City government and then provides information on specific powers and duties of Commissioners vis a vis their Department Heads and other City officials who have authority over the City's business operations.

Executive Branch and Legislative Branch Governance over Commissions:

The Charter grants power to govern the City to the Mayor and the Board of Supervisors. The Mayor may exercise the Charter powers of Executive Branch Reorganization to reorganize the duties and functions between departments and other units within the Executive Branch. This is done by issuing a notice to the Board of Supervisors concerning the

¹ This document was prepared under contract for the City Librarian as a service of the San Francisco Friends of the Public Library.

Page - 2 - City Charter Summary

reorganization which shall become effective 30 days after its issuance unless disapproved by the Board during that time. If such a transfer occurs, the status, position, compensation or pension or retirement rights of employees are protected and funds appropriated for a specific purpose must be used for the same purpose within the new organization. (May not transfer functions specified in the Charter.)

Noninterference with the Executive Branch:

The Executive Branch while subject to the checks and balances of the Legislative Branch is also protected from interference. The Charter provides that, except for the power of inquiry, the Board of Supervisors must deal with the administration of the City through the Mayor and the City Administrator. Supervisors are prohibited from interfering with any appointment, promotion, compensation, disciplinary action, contract or requisition for purchase or other administrative action by the Commissioners or the City Administrator. Supervisors may by inquiry or public hearing review matters which involve the administration of the city. They also may testify before City Commissions and, by ordinance, adopt legislation regarding administrative matters so long as the testimony or ordinance do not involve personnel decisions or specific contract provisions.

Commissions:

The Commission provides oversight for a specific City Department which conducts its business within the confines of the management structure of the city. The Department is part of the Executive Branch of the City headed by the Mayor who grants authority and accountability for operations of a specific department to either a Commission or to the City Administrator.

By agreeing to serve the City as a Commissioner, you have already committed yourself to complying with these laws and regulations. A full understanding of your role under the new City Charter is also imperative in fulfilling your obligations.

Appointment Process:

Commission appointments are subject to various provisions of the Charter which specify that Commissioners be representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation of the City with representation of both sexes. Commissioners must also be electors unless otherwise specified

Page - 3 - City Charter Summary

by a legislative requirement. Some Commissioners serve at the pleasure of the Mayor and make be removed by the Mayor any time. Others are appointed to serve a specified term and are not subject to removal without just cause. (Library Commissioners serve at the pleasure of the Mayor.) The Board has authority to reject Commissioners who are appointed by the Mayor if two-thirds of the Board of Supervisors votes to reject the appointee within 30 days of the Mayor's appointment. Vacancies of a Commission shall be filled for the unexpired term in the manner prescribed for initial appointments.

Standards of Conduct:

Commissioners share governance with the Mayor, the Board of Supervisors, Department Heads and other City officials. The primary duty of a Commissioner is to make decisions as a collective body in public. Under the general direction of the Mayor, the Commission establishes the policy direction of a City Department. Permissible actions of Commissioners are further governed by the Brown Act which specifies that public bodies must conduct the business of the public in public; the ethics law which regulates conflict of interest and undue influence; the financial disclosure requirements which allow members of the public to be aware of potential conflicts of interest which impact on public decision making; and the Sunshine Ordinance which provides a higher standard than general State law on opening up the City's governance to public scrutiny. The decisions and other actions of public officials are recorded in various documents which are in themselves subject to disclosure under the Public Records Act.

A Commissioner is held accountable for his or her actions as a Commissioner under these standards. Any violation of the Charter provisions or other laws governing your conduct shall be official misconduct and shall be the basis of discipline or removal from office.

The Role and Authority of Library Commissioners:

The Charter establishes a Library Commission with seven Commissioners appointed and removed at the pleasure of the Mayor for four year terms. It provides for a Library Department and two employees who serve at the pleasure of the Commission, the City Librarian who is also named the Department Head, and the Secretary to the Library Commission. The Charter also provides for an exempt confidential secretary or executive assistant to serve the Department Head.

Page - 4 - City Charter Summary

Specific Powers and Duties of Commissioners and Limitations on their Authority.

The Charter includes a specific list of powers and duties for Commissions which are enumerated below. These powers are subject to the approval of the Mayor, the Board of Supervisors and may be reviewed by other City officials such as the Controller and City Attorney for management audit and legal reasons.

These functions can be divided into the following areas: policy development; budget and finances; supervision of Department Head and Commission Secretary; and inquiry and investigation. Each function is described below in the context of the overall operation of the City.

Policy Development:

The Mayor provides general administration and oversight for all departments in the Executive Branch of government. The Board of Supervisors provide overall direction for the City by ordinance and approves the budget of the City.

Commissioners in turn, formulate, evaluate and approve goals, objectives, plans, and programs and set policies consistent with these overall goals. Commissioners report directly to the Mayor for their Departments while other Departments report to the Mayor through the City Administrator.

Each Commission develops a current annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals. This is subject to approval by the Mayor and Board of Supervisors. For most Commissions, this statement takes the form of a management plan adopted and amended annually to reflect the needs of the Department. Each year the Commission must prepare an Annual report based on this Statement of Purpose which must be submitted to the Mayor and the Board of Supervisors.

Budget and Finances:

The Budget Process:

The Commission implements its management plan through the budget process. The Commission, after a public hearing, approves the Department budget as well as budget modifications, and any fund transfers that require approval by the Board of Supervisors.

Page - 5 - City Charter Summary

The Department Head develops the budget which after Commission approval is submitted to the Mayor's office. The Commission's role is now purely advisory. The Mayor uses the Commission approved budget in preparing the City's budget which must be approved by the Board of Supervisors.

The Commission also recommends to the Mayor, for submission to the Board of Supervisors, rates fees and similar charges with respect to the operation of the Department.

Transition to a Mission Driven Budget:

The new Charter requires a transition (over a three year period) to a Mission driven budget. The new budget format shall describe each proposed activity of the department and the cost of the activity. The budget will also provide to the Mayor and Board of Supervisors the following:

1. The overall mission and goals of the Department;
2. The specific programs and activities conducted by the Department to accomplish the mission and goals;
3. Customers and clients served by the Department;
4. The service outcomes for customers and clients;
5. Strategic plans that guide each program;
6. Productivity goals which measure progress toward these goals;
7. Total cost for each program and activity; and
8. The extent to which the department achieved, exceeded or failed to meet its missions, goals, productivity objectives, services objectives, strategic plans and spending constraints during the prior year.

With the adoption by each Department of a mission driven budget, Commissioners and Department Heads are required to certify to the Major and the Board of Supervisors their individual and collective commitment to perform the programs and activities as described in the budget.

Page - 6 - City Charter Summary

Budgetary Powers and Constraints:

The Charter provides for other powers and constraints which impact on the budget and financial policies and decision making of a Commission/Department. For instance, the Board of Supervisors may require multi-year budgets or other budget planning strategies by ordinance.

To provide for budget oversight, the Controller prepares an annual report for the Mayor and Board of Supervisors which provides information about how well each Department meet, exceeded or failed to meet its mission driven objectives.

The Board of Supervisors has two other specific oversight functions with respect to city expenditures. The first is a requirement that any contract worth a million dollars in revenues or expenditures must be approved by the Board by resolution (unless the Charter specifies otherwise).

The second requires Board approval of contracts, with the exception of construction contracts or other specified in the Charter, which are for a term of ten years or more and also includes approval of modifications over 500,000.00 during the term.

Other modifications of the budget may be authorized by the Board of Supervisors through the Controller upon the request of the Mayor or a Commission for transfer of previously appropriated funds from one departmental program to another without further approval by the Board of Supervisors. Amendments to appropriation ordinances may not be approved by the Board unless the Controller certifies availability of funds.

Funding Sources for the Library:

The Charter also specifically defines certain funding sources for the Library which impact on the development of the budget and library expenditures.

The Charter provides an annual appropriation to the Library Commission of revenue from a minimum tax of one cent per hundred dollars of taxable assessed valuation for constructing, maintaining and improving the Library system of San Francisco.

The voters provided funding for library services and materials and the operation of library facilities entitled the Library Preservation Fund which is a separately maintained fund established in 1995. The voters also

Page - 7 - City Charter Summary

specified a base line level of service for the first five years under this 15 year initiative ordinance for a total annual average of 1028 hours of service per week. At five year intervals in January 2000 and January 2005, the library shall hold public hearings to discuss possible modifications to service levels. The City may not decrease other funding to the Library so long as this measure is in effect.

The Children's Fund established by the voters in the Charter provides that children will received a certain level of library services for a period of 15 years.

Recruitment, Appointment and Retention of Commission Employees:

The Commission appoints its own Secretary who serves at the pleasure of the Commission. This position is an exempt position.

The Commission participates in the selection of the Department Head by recruiting and interviewing candidates and submitting the names of three qualified applicants for appointment by the Mayor. If these applicants are rejected the Commission shall recommend additional applicants until an appointment is made by the Mayor. The Mayor reserves the right to recommend the removal of a Department Head. The Commission must act upon a recommendation by either retaining or removing the Department Head within 30 days. Failure to act upon such a recommendation constitutes official misconduct.

Inquiry, Investigation and Public Hearings:

Commissioners have the general authority under the Charter to conduct investigations into any aspect of government operations within the Commission's jurisdiction through the power of inquiry and to make recommendations to the Mayor or the Board of Supervisors. Commissions can hold public hearings and take testimony in furtherance of their mission.

Public Hearing for Specific City functions.

The Charter contains a specific section addressing the right of the public to the publication of and full public access to public documents, except those subject to confidentiality, as required by law. This section requires timely publication of notice of public hearings which must include a general description of the business to be conducted at such a hearing.

Page - 8 - City Charter Summary

Such notices are required for specific types of City decisions as listed below:

1. Any hearing on the closure, sale, of facilities, a change in services being offered in a facility, or prior to leasing, selling or transferring management of such a facility;
2. A significant change in the operating schedule of public transportation;
3. A change in any fee, schedule of rates, charges or fares which affect the public;
4. Requests for bids or proposals to purchase or lease materials, supplies etc. and
5. Other provisions related to planning and land uses and election polling places.

Commission Rules of Operations:

Each Commission must adopt, amend or repeal its operating rules and regulations (Bylaws) through a properly noticed (ten days minimum) public hearing.

Such operating rules govern the conduct of the public business which is conducted at open public meetings which encourage the active participation of interested persons. Closed sessions may only be held for such matters such as personnel or disciplinary matters which are permitted under State law or ordinances passed by the Board of Supervisors. Each Commission must keep a record of its proceedings which includes documentation of how each Commissioner voted on each questions. These records, except as may be limited by state law or ordinance shall be available for public inspection. The Sunshine ordinance passed by the City provides further rights to public access and availability of public records.

A majority of members of a Commission constitute a quorum for transaction of business and unless otherwise provided for in the Charter, an affirmative vote by a majority of members is required for approval of any matter. Some procedural matters may be adopted by a majority of members present so long as a quorum is present. All members must vote yes or no when a question is put unless excused from voting by a motion adopted by a majority of members present.

Page - 9 - City Charter Summary

The Role and Responsibilities of the Department Head.

Except as otherwise provided by Charter, the responsibilities of Departments are set forth by ordinance. The Administration and management of each Department are the responsibility of the Department Head who may: 1. appoint qualified individuals to fill exempt positions within the Department; 2. adopt rules and regulations governing matters within the jurisdiction of the department subject, if applicable to the powers of the Commissions which oversee the department; and 3. with approval of the city administrator reorganize the department.

Other employees of the Department are appointed by the Department Head under the merit hiring processes established and administered by the City Civil Commission. Employee relations are further governed under the provisions of various collective bargaining agreements with city workers.

Commissioners may not serve as a paid staff member of a Commission while serving on a Commission created by State law to fulfill a State function in San Francisco.

Interactions with Other City Offices to Accomplish the Work of the Department.

Each Department must interact with other City entities to obtain materials and services for the conduct of its affairs. These entities have oversight functions specified in the Charter which serve as management controls and checks and balances on Departmental operations.

The City Administrator has responsibility for administrative services within the Executive Branch as assigned by the Mayor or prescribed by ordinance. The City Administrator coordinates all capital improvements and construction projects except for the Airport, Port, Public Utilities and Public Transportation projects. The CA administers policies and procedures regarding bonded or other long term indebtedness, procurement, contracts and building and occupancy permits. The City Administrator proposes rules governing procurement and contracts to the Board of Supervisors for adoption. The City Administrator awards contracts without interference from the Mayor or Board of Supervisors.

The Controller is appointed by the Mayor and confirmed by the Board of Supervisors for a ten year term. The Controller may be removed by the Mayor for cause only if 2/3's of the Supervisors concur.

Page - 10 - City Charter Summary

The Controller has authority to audit the accounts and operations of any City department and Commission. The Controller shall evaluate the effectiveness and efficiency of the entity and must now make a special report to the Mayor and Board on each department under the new Mission driven budget process. No monies may be disbursed without the prior authorization of the Controller.

The City Attorney represents the City and County of San Francisco in legal proceedings with respect to which it has an interest. The City Attorney represents all city officials when directed to do so by the Board of Supervisors unless a cause of action exists in favor of the City against such an official. The City Attorney upon request, provides advice or written opinion to Officers, Department heads, Boards or Commissions. If a Commission wishes to consult independent counsel, approval must first be obtained from the Mayor and the City Attorney. This may be necessary if the City Attorney has a conflict of interest in a particular matter involving two city departments or the Board of Supervisors.

The Department of Administrative Services is the purchaser of all supplies, equipment and contractual services for the City. The Director has charge of the central warehouses, storerooms, garage and shop. The Director operates under the rules and regulations approved by the Controller. The Director has authority to advertise for bid, and to sell and dispose of personal property and exchange used materials to the advantage of the City. The Director manages all public buildings, facilities, and real estate of the City and can require the transfer of surplus property in any department to stores or to other departments.

The Arts Commission has broad authority over cultural affairs of the City, but specifically cannot interfere with the Library, the charitable trusts departments or the Academy of Sciences in conducting activities, or affecting the land and buildings and other assets that they control.

Ethics Provisions: Appendix C of the Charter

The City Ethics Commission is responsible for the impartial and effective administration of the Charter provisions and ordinances concerning campaign finance, lobbying, conflicts of interest, and government ethics. All city officials are subject to these rules and regulations.

Page - 11 - City Charter Summary

The Commission provides the following services to officials and Commissions:

1. Assists departments in developing and maintaining their conflict of interest codes as required by state law.
2. Provides annual seminars for top level officials including elected officials and Commissioners to reinforce the importance of compliance with, and to inform them of any changes in, the law relating to conflicts of interest, lobbying, governmental ethnics, and open meetings and public records.
3. Provides updated manuals in plain English on the Ethics laws and reporting requirements and on the city ordinances related to open meetings and public records.
4. Provides oral advice for staff members on official duties and functions subject to the Ethics laws.
5. Upon request, furnishes written opinions with respect to an officials duties under the laws enforced by the Ethics Commission.

Conflict of Interest Provisions and other prohibited practices

Appendix C of the Charter includes specific provisions which apply to City Officials in the conduct of City business. It provides that:

1. Officials of the City may not have any direct or indirect financial or other interest in a contract, franchise right privilege or sale or lease of property awarded, entered into or authorized by him/her in his or her capacity of as a city official. If one has such an interest, it must be divested within 60 days or a person cannot serve on a Commission.
2. No officer or employee may give anything of value in consideration of his or her nomination, appointment or election to a city office (lawful political contributions are allowed).
3. No official may use an official city position to influence a government decision in which he or she knows or has reason to know that he or she has a financial interest. The law also prohibits the use of privileged information for personal gain and the disclosure of privileged information (unless compelled under a duty to law).

Page - 12 - City Charter Summary

4. A city official may not accept compensation in any form for activity except for fees for speeches or published writings for information obtained in the course of serving the city.

Appendix C also contains very specific guidance on what is considered an interest which must be disclosed by a City Official upon assuming office and annually thereafter in order to avoid a conflict of interest in the conduct of City business.

The Charter also requires that, upon leaving office, a person may not represent another before the same Board of Commission for a period of two years.

It is very important that each Commission read and understand these sections of the Charter, in particular. If a Commission has a questions, her or she should seek the advice of the City Attorney to insure full compliance with the law.